IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23178 of 2004

Between:

Kantilal Sugandhi, W/o. Late Kishandas Sugandhi,
C.D. Battlewala in Shop Premises No. 15-5-97, Afzal Gunj, Hyderabad.

..... PETITIONER

AND

1 Municipal Corporation of Hyderabad, BRKR, Tank Bund road, Hyderabad.
rep. by its Commissioner.
2 The Assistant City Planner, Twon Planning Section, Circle, No. II,
Municipal Corporation of Hyderabad, Sardar Mahal, Charminar, Hyderabad.
3 Vishnu Prakash Neemkar, S/o. Late Nago Rao Neemdkar,
R/o. H.No. 15-5-95/2 & 3, Afzal Gunj, Hyderabad.
4 Jagdish Prakash Neemkar, S/o. Late Nago Rao Neemkar,
R/o. H.No. 15-5-95/2 & 3, Afzal Jung, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ, Order or direction in the mandamus or otherwise declaring that the impugned proceedings of the respondents 1 and 2 bearing letter No. 3106/TPS/C2/W15/MCH/2004 dt. 1.12.2004 in respect of shop No. 15-5-97, situated at Afzal Gunj, Hyderabad, where petitioner is carrying on business under name & Style of C.D. Battlewala "Under the purported exercise of power under Sec. 459 of the H.M.C. Act is wholly illegal, arbitrary and ultra virus the powers of the respondents 1 and 2 and consequently declare the same as unenforceable and be pleased to pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.DILIP KUMAR SHIRODKAR

Counsel for the Respondent No.: MR.G.RAMA RAO

The Court at the stage of admission made the following :

ORDER:

The petitioner claims to be the tenant of non-residential premises belonging to the respondents 3 and 4. He was served with a notice, dated 01-12-2004, issued by the respondents 1 and 2, under Section 459 of the Hyderabad Municipal Corporation Act
(for short 'the Act'), requiring him to vacate the building within 7 days, failing which demolition action will be initiated, departmentally. The only contention urged on behalf of the petitioner is that no opportunity, as contemplated under Section 459 of the Act, was provided to him, to put forward the objections.

Heard the learned counsel for the petitioner and learned Standing Counsel for the Municipal Corporation.

The impugned notice does not refer to any earlier proceedings. The petitioner is straightaway requested to vacate the building immediately, or to remove the dilapidated structures. Section 456 of the Act, which confers the power on the Commissioner, to remove dilapidated structures, read with Section 459; mandates issuance of notices.

Hence, the writ petition is disposed of, and the impugned notice is set aside, leaving it open to the respondents 1 and 2, to take necessary steps, strictly in accordance with Sections 456 and 459 of the Act. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.14-12-2004

To

1 Municipal Corporation of Hyderabad, BRKR, Tank Bund road, Hyderabad.
rep. by its Commissioner.
2 The Assistant City Planner, Twon Planning Section, Circle, No. II,
Municipal Corporation of Hyderabad, Sardar Mahal, Charminar, Hyderabad.
3. 2 C.D. copies.